

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

2006 NOV 30 PM 1:33

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

CLERK *RW*
SO. DIST. OF GA.

RONALD DEXTER RADFORD,

Plaintiff,

vs.

CIVIL ACTION NO.: CV605-029

HUGH SMITH, Warden, and
JIMMY KENNEDY, Library Supervisor,

Defendants.

ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff asserts that he was not provided with the forms he needed in order to file a petition for writ of certiorari with the United States Supreme Court. Plaintiff also asserts that, because he was not provided with these forms, he was not able to file the necessary documents with the Supreme Court in a timely manner. Plaintiff further asserts that he has established that the denial of these forms resulted in his cause of action being prejudiced.

Plaintiff only offers his assertion that he was unable to file a timely petition with the Supreme Court and that his alleged failure to do so affected his ability to appeal his 1993 criminal conviction. However, Plaintiff does not offer any evidence in support of this assertion. Plaintiff attaches to his Objections a blank petition for writ of certiorari and a list

of the types of blank forms Georgia State Prison provides to inmates housed there. These attachments fail to properly support Plaintiff's assertions.

In addition, Plaintiff directs the Court's attention to the appeal he filed with the Eleventh Circuit Court of Appeals, which is Appeal Number 03-10118-D. This appeal concerned the Northern District of Georgia court's dismissal of Plaintiff's 28 U.S.C. § 2254 petition as untimely filed. The Eleventh Circuit denied Plaintiff's certificate of appealability "because reasonable jurists" could not debate "about the procedural issues" (i.e., the untimeliness of his petition) he raised in his appeal. (N.D. Ga. 2:02CV00076, Doc. No. 27.) Even if what Plaintiff asserts in his Objections is true and the Court were to assume Plaintiff's assertions were properly supported, Plaintiff fails to show that he suffered an actual injury to a cause of action.

Plaintiff's Objections are without merit. The Report and Recommendation of the Magistrate Judge, as supplemented herein, is adopted as the opinion of the Court. Defendants' Motion for Summary Judgment (Doc. No. 21) is **GRANTED**. Plaintiff's Motions for Summary Judgment (Doc. Nos. 27 and 34) are **DENIED**. Plaintiff's Complaint is **DISMISSED**. The Clerk of Court is hereby authorized and directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 30 day of Nov., 2006.


B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA